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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/481,451 01/11/00 FAHS

K 115/434

IM22/0105

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EXAMINER

NGUYEN, T

ART UNIT

PAPER NUMBER

1722

DATE MAILED:

01/05/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No.	Applicant(s)	
	09/481,451	FAHS ET AL.	
	Examiner	Art Unit	
	Thu Khanh T. Nguyen	1722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claims ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4 and 5.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claims 6 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 6, the word "means" is preceded by the word(s) "wherein" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Khumb*, 159 USPQ 694 (Bd. App. 1967).

The term "capable of" in claim 7 is a relative term which renders the claim indefinite. The term "capable of" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1, 3-7, 9-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Driessen (4,790,242) in view of Japanese reference (59,133).

Driessen discloses an apparatus and method for casting cheese, comprising a removable discharge manifold (11, 12, col. 2, lines 1-2), wherein the manifold having a hollow interior chamber (Fig. 5) with many inlets (49) for receiving starting material (65), a discharge opening (15, open bottom of chamber 12), an endless casting belt (61) mounted adjacent to the manifold, a thickness control bar (18) is mounted at one side of the chamber (12) for controlling the thickness of the web material, a belt driven mechanism (71, 69) for revolving the belt. The manifold chamber includes a top, bottom, end, upstream and downstream face plates (11, 12), wherein the bottom face open to the casting belt, the downstream face open to the control bar, and the top face having inlets (Fig. 12); each inlets is attached to a corresponding adjustable valve (52), and wherein the control bar (18) is set a fixed distance from the casting belt (61) and a space is formed between a surface of the control bar (18) for determine the thickness of the web material. However, Driessen fails to disclose a roller being mounted at the downstream face of the manifold chamber.

The Japanese reference discloses a method and apparatus for forming a dough web material, comprising an endless casting belt (14), a rotatable press roller (7) mounted to the downstream face of the manifold (1) and being driven by a shaft in the same direction as the belt for the purpose of facilitating the material onto the casting belt.

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have replaced Driessen's control bar with a rotatable press roller in order to facilitate the movement of the material from the manifold onto the casting belt as taught by the Japanese reference.

6. Claims 2 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Driessen (4,790,242) in view of Japanese reference (59,133) as applied to claims 1 and 7 above, and further in view of Collins (4,815,370).

Driessen and the Japanese reference disclose an apparatus and method for forming a dough web as described above. However, these references fail to disclose the roller is made of steel and having a plastic sleeve.

Collins discloses a rice pressing apparatus in which a press roller can be made of steel having a rubber sleeve in order to smooth the web material surface and to be able to change the sleeve as it worn out without replacing the roller.

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have modified Driessen and the Japanese reference with a roller made of steel with a plastic sleeve for the purpose of smoothing the web surface and being able to change the sleeve as it worn out without replacing the roller as taught by Collins. It is in the scope of an artisan to recognize that stainless steel is a better choice for making a mold or a press roller.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Khanh T. Nguyen whose telephone number is 703-305-7167. The examiner can normally be reached on 1st Friday off, 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Y Pyon can be reached on 703-308-4251. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9673 for regular communications and 703-305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



January 4, 2001


HAROLD PYON
SUPERVISORY PATENT EXAMINER
1722

1/4/01